

RSA-5538-2016 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-5538-2016 (O&M)
Date of decision : 30.04.2019**

Parvinder Singh

... Appellant

Versus

Bhupinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Raman Mohinder Sharma, Advocate
for the appellant.

Mr. Vikas Mehsempuri, Advocate
for the applicant in CM No.12355-C-2017.

Mr. Umesh Kumar Kanwar, Advocate
for the applicant in CM No.12293-C-2017.

AMIT RAWAL, J. (ORAL)

CM-14463-C-2016

The application is allowed and the deficiency of court fee is made good.

CM-14464-C-2016

For the reasons stated in the application, which is supported by an affidavit, delay of 103 days in re-filing the appeal is condoned.

CM stands disposed of.

MAIN CASE

The present regular second appeal is directed against the judgment and decree of the lower Appellate Court, whereby the decree of

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the trial Court granting the injunction qua forcible interference and dispossession, by rejecting the plea of declaration, has been reversed, resulting into, dismissal of the suit in toto.

The plaintiff claimed the property to be ancestral/coparcenary and also injunction of forcible interference and dispossession. It was alleged that the property was inherited by his grandfather from his father and thereafter, Ranjit Singh.

Bhupinder Singh/defendant, being grandfather, opposed the suit and denied the character and nature of the property as ancestral as well as the possession.

Both the parties led extensive evidence.

The trial Court on the basis of some part of the cross-examination of the defendant, granted the injunction by declining the declaration, but the lower Appellate Court has reversed it.

Mr. Sharma, learned counsel appearing on behalf of the appellants-plaintiffs submitted that the admission would be best piece of evidence viz-a-viz the documentary evidence. The khasra girdawaris did not reflect the true picture, therefore, injunction granted by the trial Court cannot be disturbed.

Learned counsel for the appearing on behalf of the applicants submitted that the khasra girdawaris are not of only particular year, but spanning from the number of years and had not been so far challenged nor any application for correction of the revenue record has been filed, therefore, carry presumption of truth as per Section 44 of the Punjab Land Revenue Act. The lower Appellate Court, being the last Court of fact and law, after appreciating the evidence, has rightly reversed the findings of the

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trial Court and there is no illegality and perversity in the judgment and decree, under challenge.

I have heard learned counsel for the parties, appraised the paper book as well as records of the Courts below and of the view that there is no force and merit in the submissions of Mr. Sharma, for, the person may tell lie, but not the documents. The khasra girdawaris are the exclusive piece of evidence for establishing the possession. The plaintiff has to stand to his own legs and cannot find fault and take the benefit of one line here and there, in the cross-examination as the Courts below are required to refer to each and every document.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Sharma, to form a different opinion than the one already arrived at by the lower Appellate Court, much less, no substantial question of law arises for determination. No ground is made out for interference.

Resultantly, the second appeal is dismissed.

Since the main appeal has been dismissed, the application bearing CM Nos.12355-C & 12293-C of 2017 for impleadment, have been rendered infructuous and the same are disposed of as such.

30.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**